



Docket No.: C1005.70008US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark J. Pykett et al.
Serial No.: 10/088826
Confirmation No.: 5264
Filed: August 13, 2002
For: METHODS AND DEVICES FOR OBTAINING NON-
HEMATOPOIETIC LINEAGE CELLS FROM HEMATOPOIETIC
PROGENITOR CELLS
Examiner: M. A. Belyavskiy
Art Unit: 1644

Express Mail Label No. EV744771231US
Dated: December 20, 2006

**LETTER REGARDING EXTENSION FEES AND
TELEPHONE INTERVIEW SUMMARY**

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office action dated June 20, 2006, finally rejecting claims 1, 2, 5, 9-16, 18-20 and 24-29, Applicant filed a response within the two month period, dated August 21, 2006 (August 20, 2006 being a Sunday). Applicant has not received an advisory action in this case. In a telephone conversation with the Examiner on December 19, 2006, the Examiner indicated based on instructions from Supervisor Christina Chan that in order to keep the case alive, Applicant is required to file a three month extension fee, and then petition for refund of this fee. Applicant does not believe that such a fee is required for the reasons set forth below.

According to MPEP 706.07(f) (Time for Reply to Final Rejection), "All final rejections setting a 3-month shortened statutory period (SSP) for reply should ... (advise) applicant that if the reply is filed within 2 months of the date of the final Office action, the shortened statutory period will expire at 3 months from the final rejection or on the date the advisory action is mailed, which is later" and "where a final Office action sets a variable reply period ... AND

applicant files a complete first reply to the final Office action within 2 months of the date of the final Office action, the examiner must determine if the reply ... (3) does not place the application in condition for allowance – then the advisory action should inform applicant that the SSP for reply expires 3 months from the date of the final rejection or as of the mailing date of the final rejection or as of the mailing date of the advisory action, which is later ...”.

The Final Action set a variable period for reply. Indeed on page 5 of the action, the Examiner states that “In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action”. Applicant filed a complete response within 2 months of the date of the Final Action. Assuming that the response does not place the application in condition for allowance, Applicant herewith submits a Request for Continued Examination. Applicant is required to submit an extension of time calculated from the mailing date of the advisory action. A telephone discussion with the Examiner on December 19, 2006 and a search of Private PAIR on December 20, 2006 (search attached) indicate that an advisory action has not been mailed as of December 20, 2006. If the advisory action is not mailed or is mailed on December 20, 2006 (after the mailing of these papers), no extension fees should be due. However, out of an abundance of caution, Applicant authorizes charging the Deposit Account 23/2825 should an extension fee be considered due.

Respectfully submitted,



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Date: December 20, 2006
x12/20/2006

10/088,826	Methods and devices for obtaining non-hematopoietic lineage cells from hematopoietic progenitor cells	12-20-2006::07:54:38
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Bibliographic Data

Application Number:	10/088,826	Customer Number:	23628
Filing or 371 (c) Date:	08-13-2002	Status:	Response after Final Action Forwarded to Examiner
Application Type:	Utility	Status Date:	12-19-2006
Examiner Name:	<u>BELYAVSKYI, MICHAIL A</u>	Location:	ELECTRONIC
Group Art Unit:	1644	Location Date:	-
Confirmation Number:	5264	Earliest Publication No:	-
Attorney Docket Number:	C01005/70008	Earliest Publication Date:	-
Class / Subclass:	424/093.100	Patent Number:	-
First Named Inventor:	Mark Pykett , Boxford, MA (US)	Issue Date of Patent:	-

Title of Invention:	Methods and devices for obtaining non-hematopoietic lineage cells from hematopoietic progenitor cells
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10/088,826

Methods and devices for obtaining non-hemato progenitor cells

Select New Case	Application Data	Transaction History	Image File Wrapper	Continuity Data	Address & Attorney/Agent
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Transaction History

Date	Transaction Description
12-19-2006	Date Forwarded to Examiner
08-23-2006	Amendment after Final Rejection
06-20-2006	Mail Final Rejection (PTOL - 326)
06-12-2006	Final Rejection
05-10-2006	Date Forwarded to Examiner
05-03-2006	Response after Non-Final Action
05-03-2006	Request for Extension of Time - Granted
12-30-2005	Mail Non-Final Rejection
12-27-2005	Non-Final Rejection
10-03-2005	Information Disclosure Statement considered
10-03-2005	Reference capture on IDS
10-03-2005	Information Disclosure Statement (IDS) Filed
10-20-2005	Date Forwarded to Examiner
10-03-2005	Request for Continued Examination (RCE)
10-20-2005	DISPOSAL FOR A RCE/CPA/129 (express abandonment if
10-03-2005	Request for Extension of Time - Granted
10-03-2005	Workflow - Request for RCE - Begin
09-20-2005	Mail Advisory Action (PTOL - 303)
09-16-2005	Advisory Action (PTOL-303)
09-12-2005	Date Forwarded to Examiner
08-31-2005	Amendment after Final Rejection
08-22-2005	Mail Examiner Interview Summary (PTOL - 413)
08-18-2005	Examiner Interview Summary Record (PTOL - 413)
07-22-2005	Information Disclosure Statement (IDS) Filed
06-29-2005	Mail Final Rejection (PTOL - 326)
06-27-2005	Final Rejection
06-16-2005	Information Disclosure Statement (IDS) Filed
05-25-2005	Date Forwarded to Examiner
04-28-2005	Response after Non-Final Action
01-25-2005	Mail Non-Final Rejection
01-24-2005	Non-Final Rejection
12-16-2004	Date Forwarded to Examiner

12-08-2004	Response to Election / Restriction Filed
12-08-2004	Request for Extension of Time - Granted
12-08-2004	Workflow incoming amendment IFW
06-04-2004	Mail Restriction Requirement
06-01-2004	Requirement for Restriction / Election
04-28-2004	Reference capture on IDS
04-28-2004	Information Disclosure Statement (IDS) Filed
04-20-2004	IFW TSS Processing by Tech Center Complete
04-20-2004	Case Docketed to Examiner in GAU
03-11-2003	Preliminary Amendment
02-05-2003	Preliminary Amendment
09-30-2003	Information Disclosure Statement (IDS) Filed
03-22-2003	Information Disclosure Statement (IDS) Filed
03-22-2003	Preliminary Amendment
11-15-2003	Cleared by OIPE CSR
06-30-2003	Application Dispatched from OIPE
06-30-2003	Notice of DO/EO Acceptance Mailed
03-11-2003	Additional Application Filing Fees
03-11-2003	CRF Disk Has Been Received by Preexam / Group / PCT
06-18-2003	CRF Is Good Technically / Entered into Database
02-28-2003	Notice of DO/EO Defective Response Mailed.
02-05-2003	Additional Application Filing Fees
02-05-2003	A set of symbols and procedures, provided to the PTO on
02-05-2003	CRF Disk Has Been Received by Preexam / Group / PCT
01-21-2003	Notice of DO/EO Defective Response Mailed.
03-22-2002	A set of symbols and procedures, provided to the PTO on
08-13-2002	Additional Application Filing Fees
08-13-2002	Information Disclosure Statements
08-13-2002	A statement by one or more inventors satisfying the req
12-31-2002	CRF Is Flawed Technically / Not Entered into Database
05-08-2002	Notice of DO/EO Missing Requirements Mailed
03-22-2002	Initial Exam Team nn

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